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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,418	05/04/2001	Randall D. Haggett	P07193US00/RFH	7802
881	7590	01/14/2004	EXAMINER	
LARSON & TAYLOR, PLC 1199 NORTH FAIRFAX STREET SUITE 900 ALEXANDRIA, VA 22314			LE, HOA VAN	
			ART UNIT	PAPER NUMBER
			1752	

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/848,418

Applicant(s)

HAGGETT ET AL.

Examiner

Hoa V. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9,10 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,10 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

This is in response to Paper filed on 15 December 2003.

I. The record shows that some embodiments have been added into some claims. However, applicant fails to clearly and precisely point out a support for each of the newly added embodiments by page and line in the specification. Applicant also fails to state that no new matter is added in the amendment. If a new matter is found, please see the authority stated in *Tronzo v. Biomet Inc.*, 41 USPQ2d 1403.

II. The amendment filed 15 December 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

Especially see claim 1 with the new added embodiments:

(1) "to a controlled level",

(2) "the outer container having...in the hydraulic cylinder"

Applicant is required to cancel the new matter in the reply to this Office Action.

III. Claim 1 (and its dependent claims 2-7, 9-10 and 21-23 for the same reason) are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification

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in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Especially see claim 1 with the new added embodiments:

(1) "to a controlled level",

(2) "the outer container having...in the hydraulic cylinder"

No support for each of them could be shown or provided.

IV. The requested amendment of the language " THE EMBODIMENTS OF...AS FOLLOWS:" has not been done and is objected to since applicant fails to clearly indicate page and line in the specification.

V. The newly amended claims 1-7, 9-10 and 21-23 have been considered and searched but Bolleman et al (5,395,592) is insufficient to disclose and teach the newly added embodiments.

VI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332.

The examiner can normally be reached on 6:30AM-5:00PM, M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark F. Huff can be reached on 571-272-1385. The fax phone numbers of the examiner is 571- 273-1332. Since there is a newly electronic filing procedure for all initial communicating papers and all responses to an Office action, the examiner fax phone number is not for use to receive any fax in response to an Office action. Applicant is requested and required

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to send all initial communicating papers and all response to Office action to a central paper or fax receiving center for an electronic scanning procedure.

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-872-9306,

(2) mail with a central mail receiving address:

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For any related question please call Customer Service at 703-308-1202.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Hoa V. Le
Primary Examiner
Art Unit 1752

HVL
06 January 2004

HOA VAN LE
PRIMARY EXAMINER
Hoa Van Le